



Ethics News

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Official Newsletter of the Indiana State Ethics Commission

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**In this Issue:**

- **2005 Class Schedule**
- **Staff Advice**
- **Ethics Survey Results**

Getting Staff Advice on Moonlighting (Outside Jobs or Outside Activities)

It is very common for an employee to seek our advice before he/she has discussed the situation with his/her supervisor. This can be problematic because one of the criteria for determining whether a state employee can *moonlight* is whether the proposed outside activity violates the employee's agency's policies or rules. For obvious reasons, we cannot know all state agencies' rules and regulations.

Accordingly, employees requesting moonlighting opinions in the future must first obtain a statement in writing from his/her agency head or the agency head's designee that attests that the outside activity does not violate the agency's rules, policies or regulations. (Email correspondence is acceptable.)

Once we have received the requested information in writing, we will analyze the request and render an opinion. If the employee's agency will not grant permission until we have given authorization, the employee does not have to get permission, only a written statement explaining the situations.

2005 Ethics Classes

Ethics Orientation

(10:00 - 11:00 a.m.)

All classes in TC 1 except Feb. 8

February 8, TC 2; April 13; June 8;
August 23; October 18; December 5

Supervisors and Managers

(10:00 - 11:30 a.m.)

All classes in TC 2

February 17; April 14; June 9; August 25;
October 20; December 8

Classes are in the Training Center (TC), Indiana Government Center South. Room assignments may change. Please check directory on day of class.

To register, call (317) 232-3850 or visit our

Web site at www.ethics.IN.gov

Staff Advice

This article briefly reviews questions recently addressed by the Ethics Commission staff. The advice is not intended as a comprehensive analysis of the issue raised. For more information on whether and how this information may apply in another situation, contact your [agency Ethics Officer](#) or the State Ethics Commission.

NOTE: *Please be advised that the opinions in these answers merely interpret and apply the State Ethics Commission's laws, regulations, and policies. The fact scenarios presented in these questions could possibly violate other agency laws, regulations, rules, or policies.*

Q. Can a state employee accept a door prize on behalf of her agency at a seminar she attended? The prize was a human resources-related seminar worth \$400. The entity putting on the seminar does not have a business relationship with her agency.

A. The employee could accept the prize on behalf of herself or the agency since the entity putting on the seminar does not have a business relationship with the employee's agency. However, if the entity *did* have a business relationship with her agency, the employee could not accept the prize. In that situation, the agency would want to file a written waiver with the Ethics Commission. It would be easy to show that it is in the state's best interest for the employee to attend a seminar to learn about human resources issues.

Q. I don't find a definition of "public institution" as used in 40 IAC 2-1-6(b)(1). Would a gift from a public institution of higher learning, i.e., IUPUI, fall within the exemption?

A. Although there is no definition of public institution in the Ethics Code, the Ethics Commission has always interpreted public institutions to include universities and colleges. Accordingly, a gift from IUPUI would be fine.

Q. Is it ethical for state employees to accept M-Plan's offer to provide them with internet-based smoking cessation training? The training offered by M-Plan, which has the support of Indiana Tobacco Prevention and Cessation (ITPC) and the State Personnel Department (SPD), will soon be offered to all state employees free of charge.

A. Technically, one could argue that the M-Plan smoking cessation is a gift to the state, as opposed to individual employees. Accordingly, the Ethics Commission's gift rule, found at 40 IAC 2-1-6, would not apply in this situation. However, some people might view the M-Plan training as a "gift" to individual employees. If this happens, we will rely on written justification by ITPC, filed with the Ethics Commission, explaining why state employees can accept the free training. This written justification will serve as a state employees' "waiver of the gift rule." We can also rely on the fact that SPD is jointly working with the ITPC to offer the M-Plan training to state employees.

Accordingly, any state employee who receives free smoking cessation training from M-Plan will do so with the assurance that they are in compliance with the Ethics Code.

The Ethics Commission's conflict of interest rule found at 40 IAC 2-1-9 requires that agencies state, by general written agency policy, why it is beneficial to allow its employees to use state materials or equipment on state time for matters other than official state business.

Because this matter could potentially involve state employees from every state agency, we recommended that the SPD enact a policy that allows state employees to use their state computers to access M-Plan's smoking cessation training website on state time. We also discussed the need to develop time, place, and manner guidelines so that employees do not abuse the privilege.

Q. A national franchise organization is developing a franchise in Indianapolis, and they want a Department of Commerce employee to speak at their annual meeting in Mexico. The state employee would speak in his official capacity about what small businesses need to do to succeed. The organization does not have a business relationship with the Department of Commerce.

A. It is permissible for the organization to pay for the employee's hotel, transportation, and meals. However, because he is speaking in his official capacity, he cannot accept an honorarium. However, the organization could write a check to the State of Indiana, and the check could be deposited into the state's general fund. The employee's supervisor would have to determine if he could use state time for the trip. However, even if he does not use state time to take the trip, the same rules regarding honorariums apply to this situation.

Q. Can a drug company that a state hospital does business with, give calendars to employees at the hospital? The hospital would save money if it allowed its employees to have the calendars.

A. The calendars would violate Executive Order 04-08 and the gift rule, but employees could receive a waiver of the gift rule from their agency's Ethics Officer to accept them. The waiver would have to say why acceptance of the calendars would be in the interest of the public.

Q. A state employee was invited to her spouse's company Christmas party. The spouse works at a company regulated by her agency. Accordingly, the spouse and the company would be violating Executive Order 04-08 if the spouse attended the Christmas party. Is this fair?

A. There are two options for the employee: First, the spouse could attend the party and pay for herself (e.g., the per plate caterer fee), or second, her agency's Ethics Officer could waive the gift rule. The public purpose for the waiver would be: to recognize that state employees have spouses, and to recognize that spouses like to accompany each other to employer family-related functions.

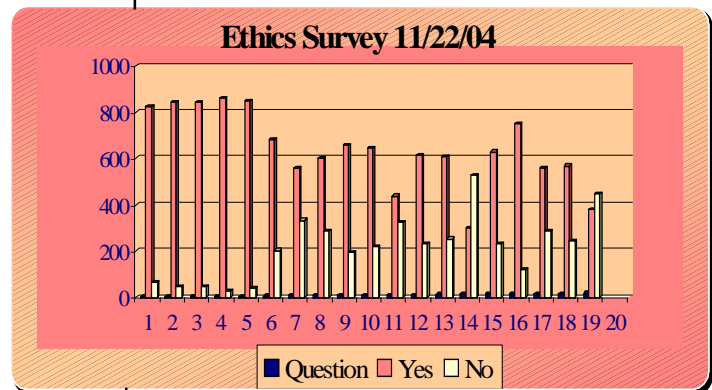
Results of Ethics Survey as it Appeared in Ethics News, November 2004 Issue. (Based on 895 Replies)

1. Have you had ethics orientation?
Yes 824 No 66
2. Have you been given a copy of the ethics rules or told to access them on our Web site?
Yes 842 No 49
3. Are you notified when the ethics newsletter comes online?
Yes 840 No 49
4. Does your agency have a policy on limited use of state resources (phone, computer, etc)?
Yes 863 No 26
5. Are employees in your agency made aware of the above policy, if there is one?
Yes 847 No 40
6. Have you been notified that there are ethics training classes online?
Yes 680 No 204
7. Are you aware that your agency has an ethics officer?
Yes 557 No 333
8. Do you know who your ethics officer is?
Yes 603 No 289
9. Do internal memos and other communications refer to public interest and other public service values?
Yes 658 No 197
10. Does your agency provide for ethics refresher training?
Yes 643 No 219
11. Do you feel that upper management takes the Code of Ethics into consideration when making decisions?
Yes 438 No 326
12. Do you feel you can go to your ethics officer in confidence?
Yes 614 No 230

13. Do you believe that upper management conforms to the Code of Ethics?
Yes 610 No 253

14. Do you feel that employees within your agency act as if the Code of Ethics is relevant to their daily work?
Yes 302 No 527

15. Does your agency give positive feedback to employees who conform to the Code of Ethics?
Yes 630 No 231



16. Are employees held accountable for their actions in your agency?
Yes 748 No 120

17. Are employees expected to apply the Code of Ethics to every aspect of their jobs?
Yes 561 No 289

18. Does upper management act ethically consistent in carrying out supervisory duties?
Yes 568 No 246

19. Are employees listened to when they identify ethical concerns about any aspect of a job?
Yes 380 No 447

Note: There were originally twenty questions, but for some reason, responses to the last question did not record.



Happy Holidays!
from
the Indiana State Ethics Commission

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